Express Mail no. EV 346 809 764 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Beat MOLLET et al.

Confirmation No.: 6428

Application No.: 09/823,772

Group Art Unit: 1652

Filed: March 30, 2001

Examiner: R. Hutson

For: NOVEL STRAINS OF THE BACILLUS

Attorney Docket No.: 88265-4011

SUBTILIS GROUP FOR FOOD

FERMENTATION

STATEMENT REGARDING MICROORGANISM DEPOSIT UNDER THE TERMS OF THE BUDAPEST TREATY

Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. 1.808 Applicants deposited the microorganism under the Budapest Treaty on October 14, 1997, at the Collection Nationale de Culture de Microorganisms (CNCM), 25 rue du docteur Roux 75724 Paris, France. The depository number granted is I-2077. A copy of the deposit is attached for the Examiner's convenience. All restrictions on availability to the public of the deposited materials will be irrevocably removed upon issuance of the patent.

No fees are believed due for this submission. Should any fees be required, however, please charge them to Winston & Strawn Deposit Account No. 50-1814.

Respectfully submitted,

1-18-03

Date

WINSTON & STRAWN LLP

Customer No. 28765

(212) 294-3311

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Cople

Monsieur Claude-Alein MAVRE, dervice des Burets NESTEC 3.A. - Avenue NAME, 55 - CH-1800 VEVEY - SUISSE

Le micropromisme désigné ci-après a été déposé suprès de la CNCM aux termes du Traité de Budepost ; of morus

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Référence d'identification

Numbro d'ordre attribué nar la CNCM

BITO

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refet la microorganisme désigné si-dessus vous trauverez ci-juint dans échantilons congside d'ann pramière subculture à partir du lot 'CD1', conservé en azote liquide, afin de vérifier la maintion de leure propriétée originales.

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Mme Y. CENSIER

Directeur administratif de la cnom

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Examiner: R. Hutson

For: NOVEL STRAINS OF THE BACILLUS

Attorney Docket No.: 88265-4011

SUBTILIS GROUP FOR FOOD

FERMENTATION

LETTER RE: PRIOR ART

Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

9-18-03

Sir:

Enclosed is a copy of a search report that was recently received in applicants'

Japanese application. The report lists four (4) references. These references have been reviewed by the applicants, the assignee, and their attorneys, and it has been found that none of the references are material to the patentability of the present claims. This is also confirmed on the search report which states that the "results of the prior art search do not constitute any reasons for rejection". As applicants have no basis to ask the Examiner to review these references, it is respectfully requested that this search report and letter simply be placed into the file of this application.

Respectfully submitted,

Date

Allan A. Fanucci, Reg. No. 30,256

WINSTON & STRAWN Customer No. 28765

212-294-3311

1

Results of Prior Art Search

Field Searched IPC C12N1/21

Database WPIDS/BIOSIS/BIOTECHABS/CA(STM)

Prior Art References

JP-A-7-170935

JP-A-8-275772

E086-6-4-4F

These results of prior art search do not constitute any reasons for rejection.

List of References Cited

1. J. Biol. Chem., 1971, Vol. 216, p. 5264-5272

WINSTON & STRAWN LLP

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Fax Number: 202-371-5950

FROM:

Rodney J. Fuller, Esq.

(202) 371-5838

DATE:

Thursday, December 18, 2003

FAXED ON:

Thursday, December 18, 2003 9:40:18

Please Deliver as Soon as Possible To:

RECIPIENT

Examiner Richard G. Hutson

COMPANY

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Total number of pages including this page: 19

COMMENTS				
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PAGE 1/19 * RCVD AT 12/18/2003 9:52:13 AM [Eastern Standard Time] * SVR:USPT -EFXRF-2/1 * DNIS:7465329 * CSID:Winston Strawn * DURATI N (mm-ss):05-56

Winston & Strawn

Express Mail No.: EV 346 809 764 US

Date Mailed: September 18, 2003

U.S. Patent Application of Mollet, Beat et al.

Serial No. 09/823,772; Confirmation No. 6428

Filed: March 30, 2001

For: NOVEL STRAINS OF THE BACILLUS

SUBTILIS GROUP FOR FOOD FERMENTATION

Amendment

Statement Regarding Microorganism Deposit Under The Terms of The Budapest Treaty

(Depository Number I-2077) (5 pages)

Letter Re: Prior Art; Copy of Search Report

Formal Drawings Figs. 1-3 (3 sheets)

Docket No. 88265.4011 Sender: AAF/ipv